



## LOAN MODIFICATION OPTION

The Loan Modification Option provides for either a permanent change in one or more of the terms of a Borrower's loan, which allows a loan to be reinstated and results in a payment the Borrower can afford. Ref: Mortgage Letters 2000-05, 2005-30, 2008-2, 2009-35 and \***2011-28 (Effective January 1, 2012)**.

### FACTS

- A permanent change in the interest rate.
- All or a portion of the Principal, Interest, Taxes and Insurance arrearage may be capitalized to the mortgage balance.
- Legal fees and related foreclosure costs for work actually completed and applicable to the current default episode may be capitalized into the modified principal balance. Refer to Mortgage Letter 2005-30 for allowable attorney fees.
- Re-amortize the total unpaid amount due over a 360 month period from the due date of the first installment.
- The date the Lender approves the Loan Modification (all verification completed and servicing notes documented, reported to SFDMS) is the date that Lenders are to use in determining the interest rate.
- Lenders shall reduce the Loan Modification Note Rate to current Market Rate. HUD considers Market Rate to be no more than **50 basis points** greater than the most recent Freddie Mac Weekly Primary Mortgage Market Survey Rate for 30-year fixed-rate conforming mortgages (US average), rounded to the nearest 1/8<sup>th</sup> of one percent (0.125%), as of the date the Modification Agreement is **approved**. Freddie Mac website at <http://www.freddiemac.com/pmms/> and the Federal Reserve Board includes the average 30-year survey rate in the list of Selected Interest Rates that is publishes weekly in its Statistical Release H.15 at <http://www.federalreserve.gov/releases/h15/>
- When establishing a Loan Modification, it is acceptable for Lenders to include all payments due including an additional month.
- Late fees associated with the current default episode should be waived.
- No administrative fees for completing the Loan Modification documents can be passed on to the Borrower.
- The modified principal balance may exceed the principal balance at origination.
- The modified principal balance may exceed 100% loan-to-value.
- All Loan Modifications must result in a fixed rate loan.
- The Loan Modification must fully reinstate the loan.
- Subsequent defaults are to be treated as a new default.

## **ELIGIBILITY**

- Minimum of 12 months elapsed since loan origination date.
- The Borrower must be 61 days delinquent (three full payments due and unpaid) or more.
- Default due to a verifiable loss of income or increase in living expenses.
- The Loan Modification mortgage must remain in first lien position.
- Loan may not be in foreclosure when executed.
- Owner-occupant, committed to occupying property as primary residence.
- Borrower has stabilized surplus income sufficient to support the Loan Modification mortgage.
- Does not have another FHA-insured mortgage.

## **PROCEDURES**

- (1) Lender is required to assess the Borrower's financial condition.
- (2) Lender is to perform a retroactive escrow analysis at the time the Loan Modification to ensure that the delinquent payments being capitalized reflect the actual escrow requirements required for those months capitalized.
- (3) Lender must verify the property has no adverse physical conditions.
- (4) Home repair costs may not be calculated into the Loan Modification.
- (5) Lender must comply with State and Federal disclosure laws or notice requirements, including whether recordation is necessary to maintain first lien position requirement.
- (6) Loans reinstated using a Loan Modification within the past three years requires written justification prior to a subsequent Loan Modification.
- (7) Subsequent reason for default cannot be related to the previous reason for default.

**\*TRIAL PAYMENT PLAN – Effective January 1, 2012** - Mortgagee Letter 2011-28 supersedes Mortgagee Letters 2000-05 and 2002-17 with respect to guidance pertaining to Trial Payment Plans. Successful completion of a Trial Payment Plan as a prerequisite for a Lender executing a permanent standard Modification in the following situations is required:

- Borrower has been delinquent (30 or more days) twice or more in the preceding 12 months;
- Borrower has been delinquent for 90 days or more (three or more consecutive payments past due) in the preceding 36 months;

- Borrower has defaulted within 90 days of a previous Loss Mitigation Retention Option (Special Forbearance, Loan Modification, and Partial Claim) executed in the past 12 months;
- Financial Analysis reflects a Borrower has a net surplus income of less than 20 percent of total net income;
- If less than 14 months have elapsed since the origination of the loan;
- If the amount added to the loan balance in a Loan Modification or the amount of the Partial Claim exceeds 10 percent of the unpaid principal balance;
- Borrower failed a Trial Payment Plan for FHA's Making Home Affordable Program (FHA-HAMP); or
- Lender determines that a Trial Payment Plan is necessary to demonstrate the Borrower's ability to sustain the modified payment.
- Lenders *must* analyze the Borrower's escrow to avoid another payment increase. All or a portion of the arrearage that includes Principal, Interest, Taxes and Insurance may be capitalized and calculated into the outstanding mortgage balance.

**FAILURE OPTIONS - \*Trial Payment Plan (Effective January 1, 2012) -**

The following bullets provide the definition of Trial Payment Plan failure. These circumstances must be listed within the written Trial Payment Plan.

- The Borrower abandons the property.
- The Borrower does not make the scheduled Trial Plan Payment within 15 days of the Trial Payment Plan due date.

**INCENTIVE/CLAIMS -\*Trial Payment Plan (Effective January 1, 2012) –  
Within 60 days of the Borrower's successful completion of a Trial Payment Plan and:**

- Loan Modification documents have been "executed" by the Borrower, Lender can receive up to \$750

If you have any question you may contact NSC at:

**National Servicing Center**

**[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/housing/sfh/nsc/nshome](http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/sfh/nsc/nshome)**

**NSC's Call Center - 1-877-622-8525**

**Frequently Asked Questions:**

**[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/housing/sfh/nsc/faqnsetc](http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/sfh/nsc/faqnsetc)**